

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CR-125-1BR

UNITED STATES OF AMERICA,

v.

RODERICK ARNEZ WHITAKER

ORDER

This matter is before the court on defendant's *pro se* motion for "jail credit." (DE # 93.) As best as the court can discern, it appears defendant claims he has not been awarded credit for the time he was incarcerated from 31 March to 23 July 2009. (See id.) To the extent he claims the federal Bureau of Prisons ("BOP") has not awarded him credit, he must seek relief by filing a petition under 28 U.S.C. § 2241 in the district in which he is confined. See United States v. Miller, 871 F.2d 488, 490 (4th Cir. 1989) ("A claim for credit against a sentence attacks the computation and execution of the sentence rather than the sentence itself. Judicial review must be sought under 28 U.S.C. § 2241 . . ." (citation omitted)); Metcalf v. Kallis, No. 3:17-CV-121, 2018 WL 6258901, at *3 (N.D.W. Va. June 14, 2018) (amended report and recommendation) ("A petition for writ of habeas corpus, pursuant to § 2241, . . . is intended to address the execution of a sentence . . . and must be filed in the district where the prisoner is incarcerated. Appropriate grounds to raise in a § 2241 motion include 'actions challenging . . . computation of good time or jail credits . . .'" (citation omitted)), adopted, 2018 WL 4770843 (N.D.W. Va. Oct. 3, 2018), aff'd, 754 F. App'x 220 (4th Cir. 2019), petition for cert. filed, No. 18-9846 (U.S. June 14, 2019). The court notes that generally before filing such a petition, the petitioner must exhaust his administrative remedies through the BOP. See McClung v. Shearin, 90 F. App'x 444, 445 (4th Cir. 2004) ("Federal prisoners must exhaust their administrative remedies prior to

filings § 2241 petitions. Failure to exhaust may only be excused upon a showing of cause and prejudice.” (citations omitted)). Accordingly, defendant’s motion is DENIED WITHOUT PREJUDICE. The Clerk is DIRECTED to send defendant a copy of this order and the authorized form for filing a § 2241 petition.

This 9 September 2019.



W. Earl Britt
Senior U.S. District Judge